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19
20 IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
21 SAN JOSE DIVISION

ADR

MJJ

22 MARILYN VARNADO, on behalf of herself
23 and all others similarly situated,

No. 07-cv-03805

24 Plaintiff,

CLASS ACTION

25 v.

COMPLAINT

26 JUNIPER NETWORKS, INC., MARCEL
GANI, WILLIAM R. HEARST III, SCOTT
27 KRIENS, STRATTON SCLAVOS, PRADEEP
SINDHU and WILLIAM R. STENSRUD,

JURY TRIAL DEMANDED

1 Defendants.
2
3

4 MARILYN VARNADO ("Plaintiff"), individually and on behalf of all other persons and
5 entities who purchased or otherwise acquired securities issued by Juniper Networks, Inc. ("Juniper"
6 or the "Company") between September 1, 2003 and May 22, 2006, by her undersigned attorneys,
7 for her Class Action Complaint ("Complaint"), alleges the following upon personal knowledge as to
8 herself and her own acts, and upon information and belief as to all other matters. Plaintiff's
9 information and belief is based on her investigation (made by and through her attorneys), which
10 investigation included, among other things, a review and analysis of: (i) public documents
11 pertaining to the defendants; (ii) Juniper's filings with the Securities and Exchange Commission
12 ("SEC"); (iii) press releases published by Juniper; (iv) analyst reports concerning Juniper; and (v)
13 newspaper and magazine articles (and other media coverage) regarding Juniper and its business.
14 Many of the facts supporting the allegations contained herein are known only to the defendants or
15 are exclusively within their custody and/or control. Plaintiff believes that further substantial
16 evidentiary support will exist for the allegations in this Complaint after a reasonable opportunity for
17 discovery.

18 **I. SUMMARY OF THE ACTION**

19 1. This is securities class action brought on behalf of all purchasers of Juniper's
20 publicly traded securities between September 1, 2003 and May 22, 2006, inclusive (the "Class
21 Period"), which securities were artificially inflated because of violations of the federal securities
22 laws arising out of defendants' (i) dissemination of false and misleading statements concerning
23 Juniper's financial results; and (ii) intentional and/or reckless disregard of basic accounting
24 principles.

25 2. On May 22, 2006, Juniper announced it had received a request for information from
26 the U.S. Attorney for the Eastern District of New York related to its stock option grant practices. At
27 that time, Juniper stated it was working actively to respond to the request, and further noted that its
28 own Audit Committee was reviewing Juniper's option grants, assisted by independent counsel and
advisers. This announcement came on the heels of numerous press reports that had been published

1 since March 2006 to the effect that management at many companies likely had “backdated” the
2 grant date of stock options to senior management personnel in order to increase the potential value
3 of those options to the recipients (backdating refers to the practice by which firms choose an option
4 grant date in the past with a lower stock price). Indeed, two separate reports released in May 2006
5 identified Juniper as one company whose pattern of stock option grants to senior executives was
6 suspicious.

7 3. On the revelations of May 2006 regarding Juniper’s stock option grant practices, the
8 price of Juniper stock plummeted – from \$18.45 per share at the close of trading on April 28, 2006
9 to \$14.62 per share during the morning hours of May 22, 2006. This represented a loss in market
10 capitalization of over \$2.16 billion.

11 4. Backdating stock options, in effect, provides extra compensation to the grant
12 recipients while concealing the transfer of wealth from the shareholders. Arthur Levitt, former
13 Chairman of the SEC, recently described backdating in the most blunt term: “Backdating
14 ‘represents the ultimate in greed,’ . . . ‘It is stealing, in effect. It is ripping off shareholders in an
15 unconscionable way.’” Charles Forelle and James Bandler, *Five More Companies Show
16 Questionable Options Pattern*, THE WALL STREET JOURNAL, MAY 22, 2006, at A1.

17 5. The practice of option backdating also has important accounting ramifications.
18 Under accounting rules in effect through December 31, 2005 (APB No. 25, “Accounting for Stock
19 Issued to Employees” (APB No. 25”)), companies were allowed to expense options according to the
20 intrinsic value method, whereby the expense equaled the difference between the fair value of the
21 underlying stock and the exercise price of the option. This expense is obviously zero for option
22 grants where the exercise price equals the prevailing market price.

23 6. Such is not the case when an option grant is “in the money” (priced below a stock’s
24 fair market value at the time of the award). Options priced at below a stock’s fair market value
25 when they are awarded results in an executive receiving an instant paper gain. Under APB No. 25,
26 that “paper gain” is the equivalent of additional compensation to the executive that must be treated
27 as a cost to the corporation. Since it appears that Juniper did not treat as an expense the amount by
28

1 which the market price of Juniper's stock on the actual date the options were issued exceeded the
2 exercise price of the options, Juniper overstated its reported profits.

3 7. Apart from the foregoing, it is readily apparent that the defendants deliberately
4 concealed from the investing public that Juniper had manipulated stock option grant dates. While
5 the defendants maintained publicly that stock options to Juniper employees always were issued at
6 the fair market value of Juniper's stock on the date of the grant, in practice, the defendants
7 repeatedly manipulated option grant dates to coincide with particularly low share prices (so as to
8 benefit option recipients).

9
10 8. Plaintiff has brought this class action on behalf of similarly situated Juniper
11 shareholders to seek redress for the damages caused by the defendants' unscrupulous and
12 manipulative conduct.

13 II. **JURISDICTION AND VENUE**

14 9. This action arises under Sections 10(b), and 20(a) of the Exchange Act of 1934
15 ("Exchange Act"), 15 U.S.C. §§78j(b) and 78t(a), and Rule 10b-5 promulgated there under, 17
16 C.F.R. §240.10b-5.

17 10. This court has subject-matter jurisdiction over this action pursuant to Section 27 of
18 the Exchange Act, 15 U.S.C. §78aa, and 28 U.S.C. §1331.

19 11. Venue is proper in this District pursuant to Section 27 of the Exchange Act and 28
20 U.S.C. §1391. Many of the acts and practices complained of herein occurred in substantial part in
21 this District. Juniper maintains its headquarters in this District at 1194 North Matilda Avenue,
22 Sunnyvale, California 94089.

23 12. In connection with the acts, transactions and conduct alleged herein, defendants,
24 directly or indirectly, used the means and instrumentalities of interstate commerce, including, but
25 not limited to, the United States mails, interstate telephone communications and the facilities of a
26 national securities exchange and market.

27 III. **THE PARTIES**

1 13. Plaintiff MARILYN VARNADO purchased the publicly traded securities of Juniper
2 at artificially inflated prices during the Class Period as set forth in the accompanying certification
3 (incorporated by reference herein).

4 14. Defendant Juniper is a Delaware corporation with its principal executive offices
5 located at 1194 North Matilda Avenue, Sunnyvale, California 94089. According to its public
6 filings, Juniper is a leading provider of purpose-built Internet infrastructure solutions that meet the
7 scalability, performance, density and compatibility requirements of rapidly evolving, optically-
8 enabled Internet Protocol (IP) networks. Juniper's common stock trades on NASDAQ under the
9 ticker symbol "JNPR."

10 15. Defendant Scott Kriens ("Kriens") has served as Chief Executive Officer and
11 Chairman of the Board of Directors of Juniper since October 1996. Defendant Kriens participated
12 in the issuance of, signed, and/or certified as accurate, Juniper's false and misleading SEC filings
13 during the Class Period. Because of Defendant Krien's position, he knew the adverse non-public
14 information about the business of Juniper as well as its finances and present and future business
15 prospects, via access to internal corporate documents, conversations and connections with other
16 corporate officers and employees, attendance at management (and/or Board of Directors') meeting
17 and via reports and other information provided to him in connection therewith.

18 16. Defendant Pradeep Sindhu ("Sindhu") co-founded Juniper in February 1996 and
19 served as Chief Executive Officer and Chairman of the Board of Directors until September 1996.
20 Since that time, Dr. Sindhu has served as the Vice Chairman of the Board of Directors and Juniper's
21 Chief Technical Officer. Defendant Sindhu participated in the issuance of and/or signed Juniper's
22 false and misleading SEC filings during the Class Period. Because of Defendant Sindhu's position,
23 he knew the adverse non-public information about the business of Juniper as well as its finances and
24 present and future business prospects, via access to internal corporate documents, conversations and
25 connections with other corporate officers and employees, attendance at management (and/or Board
26 of Directors') meetings and via reports and other information provided to him in connection
27 therewith.

28

1 17. Defendant Marcel Gani (“Gani”) joined Juniper as Chief Financial Officer in
2 February 1997 and became Executive Vice President and Chief Financial Officer of Juniper in July
3 2002. In late 2004, Juniper announced that Mr. Gani would assume the position of Chief of Staff.
4 Defendant Gani still holds that position at the present time. Defendant Gani participated in the
5 issuance of, signed, and/or certified as accurate, certain of Juniper’s false and misleading SEC
6 filings during the Class Period. Because of Defendant Gani’s position, he knew the adverse non-
7 public information about the business of Juniper as well as its finances and present and future
8 business prospects, via access to internal corporate documents, conversations and corrections with
9 other corporate officers and employees, attendance at management meetings and via reports and
10 other information provided to him connection therewith.

11 18. By certifying (where required by the Sarbanes-Oxley Act of 2002) various of
12 Juniper’s SEC filings, Defendants Kriens, and Gani, represented that (i) those filings accurately
13 portrayed Juniper’s financial condition; and (ii) each had inspected Juniper’s disclosure and internal
14 financial reporting controls and found them to be effective.

15 19. Defendant William R. Hearst III (“Hearst”) has served as a director of Juniper since
16 1996 and was a member of Juniper’s Audit Committee (the “Audit Committee”) at all times during
17 the Class Period. Defendant Hearst signed certain of Juniper’s false and misleading SEC filings
18 identified in this Complaint.

19 20. Defendant Stratton Sclavos (“Sclavos”) has served as a director of Juniper since
20 2000. He served as a member of Juniper’s Audit Committee during at least a portion of 2003.
21 Defendant Sclavos signed certain of Juniper’s false and misleading SEC filings identified in this
22 Complaint.

23 21. As noted above, certain of the above-referenced defendants served as members of the
24 Audit Committee of the Juniper Board between 2003 and 2006. Juniper’s Audit Committee assists
25 the Board in fulfilling its responsibilities for general oversight of the integrity of Juniper’s financial
26 statements; Juniper’s compliance with legal and regulatory requirements; the qualifications and
27 independence of the independent auditors retained by Juniper; the performance of Juniper’s internal
28 audit function and independent auditors; and risk assessment and risk management. More

1 specifically, the Audit Committee's charter states that the responsibilities of the Audit Committee
2 "shall include," *inter alia*.

3 a. Overseeing the internal audit function and reviewing, on a continuing basis,
4 the adequacy of Juniper's system of internal controls, including meeting periodically with Juniper's
5 management and the independent auditors to review the adequacy of such controls and to review
6 before release the disclosure regarding such system of internal controls required under SEC rules to
7 be contained in Juniper's periodic filings and the attestations or reports by the independent auditors
8 relating to such disclosure;

9 b. Reviewing and discussing with management and Juniper's independent
10 auditors the annual audited financial statements and quarterly unaudited financial statements,
11 including Juniper's disclosures under "Management's Discussion and Analysis of Financial
12 Condition and Results of Operations," prior to filing Juniper's Annual Report on Form 10-K and
13 Quarterly Reports on Form 10Q, respectively, with the SEC;

14 c. Conducting a post-audit review of the financial statements and audit findings,
15 including any significant suggestions for improvements provided to management by the
16 independent auditors; and

17 d. Reviewing, approving and monitoring Juniper's Worldwide Code of Business
18 Conduct and Ethics.

19 22. Accordingly, as members of the Audit Committee during all (or a portion) of the
20 period between 2003 to 2006, Defendant Hearst and Defendant Sclavos both had the responsibility
21 to, among other things, monitor Juniper's financial reporting processes and internal control systems
22 and review Juniper's financial statements prior to their public dissemination. Defendant Hearst and
23 Defendant Sclavos knew that Juniper's financial statements would be subsequently referred to and
24 incorporated within Juniper's public filings. Consequently, these individuals had an obligation to
25 ensure that those financial statements were not false and misleading. Nevertheless, as detailed
26 herein, because of Defendants Hearst and Sclavos' intentional or reckless disregard of their duties,
27 Juniper published financial statements that were materially false and misleading.
28

1 23. Defendant William R. Stensrud has served as a director of Juniper since 1996. He
2 served on the Board's Compensation Committee throughout the Class Period. Defendant Stensrud
3 signed certain of Juniper's false and misleading SEC filings identified in this Complaint.

4 24. Collectively, defendants Kriens, Sindhu, Gani, Hearst, Sclavos and Stensrud are
5 referred to herein as the "Individual Defendants." The Individual Defendants and Juniper are
6 collectively referred to herein as the "Defendants."

7 **IV. CONTROL PERSON ALLEGATIONS/GROUP PLEADING**

8 25. By virtue of the Individual Defendants' positions within Juniper, they had access to
9 undisclosed adverse information about its business, operations, operational trends, finances, and
10 present and future business prospects. The Individual Defendants would ascertain such information
11 through Juniper's internal corporate documents (including Juniper's operating plans, budgets and
12 forecasts and reports of actual operations compared thereto), conversations and connections with
13 other corporate officers and employees, conversations and connections with vendors and customers,
14 attendance at sales, management, and Board of Director's meetings, including committees thereof,
15 and through reports and other information provided to them in connection with their roles and duties
16 as Juniper officers and directors.

17 26. It is appropriate to treat the Individual Defendants collectively as a group for
18 pleading purposes and to presume that the materially false, misleading and incomplete information
19 conveyed in Juniper's public filings and press releases as alleged herein was the result of the
20 collective actions of the Individual Defendants identified above. The Individual Defendants, by
21 virtue of their high-level positions within Juniper, directly participated in the management of
22 Juniper, were directly involved in the day-to-day operations of Juniper at the highest levels and
23 were privy to confidential proprietary information concerning Juniper and its business, operations,
24 prospects, growth, finances, and financial condition, as alleged herein.

25 27. The Individual Defendants were involved in drafting, producing, reviewing,
26 approving and/or disseminating the materially false and misleading statements and information
27 alleged herein, were aware of or recklessly disregarded the fact that materially false and misleading

1 statements were being issued regarding Juniper, and approved or ratified these statements, in
2 violation of the federal securities law.

3 28. As officers and controlling persons of a publicly-held company whose common
4 stock was, and is, registered with the SEC pursuant to the Exchange Act, and was traded on
5 NASDAQ, and governed by the provisions of the federal securities laws, the Individual Defendants
6 each had a duty to promptly disseminate accurate and truthful information with respect to Juniper's
7 financial condition and performance, growth, operations, financial statements, business, markets,
8 management, earnings and present and future business prospects, and to correct any previously
9 issued statements that had become materially misleading or untrue, so that the market price of
10 Juniper's publicly traded securities would be based upon truthful and accurate information. The
11 Individual Defendants' material misrepresentations and omissions during the Class Period violated
12 these specific requirements and obligations.

13 29. The Individual Defendants, by virtue of their positions of control and authority as
14 officers and/or directors of Juniper, were able to and did control the content of the various SEC
15 filings, press releases and other public statements pertaining to Juniper during the Class Period. The
16 Individual Defendants were provided with copies of the documents alleged herein to be misleading
17 prior to or shortly after their issuance and/or had the ability and/or opportunity to prevent their
18 issuance or cause them to be corrected. Accordingly, they are responsible for the accuracy of the
19 public reports and releases detailed herein.

20 V. **CLASS ACTION ALLEGATIONS**

21 30. Plaintiff brings this action as a class action pursuant to Federal Rules of Civil
22 Procedure 23(a) and 23(b)(3) on behalf of a class (the "Class") of all persons who purchased or
23 otherwise acquired Juniper securities during the Class Period, and who were damaged thereby. The
24 Class Period is from September 1, 2003 through May 22, 2006.

25 31. Excluded from the Class are the Defendants herein, members of the immediate
26 families of the Individual Defendants, any parent, subsidiary, affiliate, officer, or director of
27 Defendant Juniper, any entity in which any excluded person has a controlling interest, and the legal
28 representatives, heirs, successors and assigns of any excluded person.

1 32. The members of the Class are so numerous that joinder of all members is
2 impracticable. While the exact number of members of the Class is unknown to Plaintiff at the
3 present time and can only be ascertained from books and records maintained by Juniper and/or its
4 agent(s), Plaintiffs believes that there are tens of thousands of members of the Class located
5 throughout the United States. As of May 22, 2006, Juniper had issued and outstanding over 565.75
6 million shares of common stock. Throughout the Class Period, Juniper common stock was actively
7 traded on NASDAQ, with more than 6.56 billion shares traded during the Class Period.

8 33. Plaintiff will fairly and adequately represent and protect the interests of the members
9 of the Class. Plaintiff has retained extremely competent counsel experienced in class and securities
10 litigation and intends to prosecute this action vigorously. Plaintiff is a member of the Class and
11 does not have interests antagonistic to, or in conflict with, the other members if the Class.

12 34. Plaintiff's claims are typical of the claims of the members of the Class. Plaintiff and
13 all members of the Class purchased Juniper securities at artificially inflated prices and have
14 sustained damages arising out of the same wrongful course of conduct.

15 35. Common questions of law and fact exist as to all members of the Class and
16 predominate over any questions solely affecting individual members. Among the questions of law
17 and fact common to the Class are:

18 a. Whether the federal securities laws were violated by the Defendants' acts and
19 omissions and fraudulent scheme complained of herein;

20 b. Whether the Defendants participated in and pursued the common course of
21 conduct and fraudulent scheme complained of herein;

22 c. Whether the Defendants had knowledge of (or were reckless with respect to)
23 the improper activities described herein;

24 d. Whether the statements disseminated to the investing public, including
25 investors in Juniper, during the Class Period omitted and/or misrepresented material facts about
26 Juniper's true financial condition, business operations and future business prospects;

27 e. Whether Defendants acted knowingly or recklessly in omitting to state and/or
28 misrepresenting material facts;

1 f. Whether the market price of Juniper's securities during the Class Period was
 2 artificially inflated due to the non-disclosures and/or misrepresentations complained of herein; and

3 g. Whether Plaintiff and the other members of the Class have sustained damages
 4 and, if so, the appropriate measure thereof.

5 36. A class action is superior to other available methods for the fair and efficient
 6 adjudication of this controversy since, among other things, joinder of all members of the Class is
 7 impracticable. Furthermore, as the damages suffered by many individual Class members may be
 8 relatively small, the expense and burden of individual litigation make it virtually impossible for
 9 Class members individually to seek redress for the wrongful conduct alleged. Plaintiff does not
 10 foresee any difficulty in the management of this litigation that would preclude its maintenance as a
 11 class action.

12 37. The names and addresses of the record owners of the shares of Juniper common
 13 stock and other securities purchased during the Class Period are available from Juniper and/or its
 14 transfer agent(s). Notice can be provided to persons who purchased or otherwise acquired Juniper
 15 common stock by a combination of published notice and first class mail, using techniques and
 16 forms of notice similar to those customarily used in other class actions arising under the federal
 17 securities laws.

18 VI. **OVERVIEW OF JUNIPER'S FRAUDULENT SCHEME**

19 38. Each of the Defendants is liable as a particular in a scheme, plan and course of
 20 conduct that operated as a fraud and deceit on Class Period purchasers of Juniper's securities.
 21 Throughout the Class Period, Defendants disseminated materially false and misleading statements
 22 and concealed material adverse facts about Juniper's operations and financial condition. Among
 23 other fraudulent conduct, the Defendants reported inflated revenue figures for Juniper by failing to
 24 account properly for stock options made to Juniper employees (including senior management
 25 personnel).

26 39. Juniper has publicly boasted of its adoption of (and adherence to) a strict ethical
 27 code. Indeed, in its Form 10-K dated March 7, 2006, Juniper noted it had "adopted a Worldwide
 28 Code of Business Conduct and Ethics that applies to our principal executive officer and all other

1 employees.” That code apparently was designed to deter wrongdoing and to promote: (i) honest
 2 and ethical conduct; (ii) full, fair, accurate, timely and understandable disclosure in reports and
 3 documents that Juniper files with or submits to the SEC and in other public communications made
 4 by Juniper; (iii) compliance with applicable governmental laws, rules and regulations. The code
 5 specifically provide that:

6 As a public company, Juniper, through its employees, directors, contractors and agents of
 7 Company entities worldwide, has a responsibility to provide full, fair, accurate, timely and
 8 understandable disclosure of its business and financial condition in the periodic reports we
 9 are required to file with the United States Securities and Exchange Commission. Because,
 10 the integrity of our financial information is paramount. Juniper’s financial information
 11 guides the decisions of our Board of Directors and is relied upon by our stockholders and the
 12 financial markets.

13 However, notwithstanding its alleged adherence to strict ethical standards, throughout the Class
 14 Period, the Defendants deceived the investing public by, among other things, issuing false and
 15 misleading statements regarding Juniper’s stock option programs and through the intentional and/or
 16 reckless disregard of accounting principles applicable to stock option grants made to employees.

17 40. By way of background, for at least past decade, stock options, which allow option
 18 holders to acquire shares of a company’s stock on a future date at a price determined by the plan
 19 terms (the “exercise price”) – most commonly the closing price for the stock on the day of or the
 20 day before the grant – have been a popular form of executive compensation, supposedly because
 21 they help align executive interests with those of the shareholders. As *The Wall Street Journal*
 22 recently explained:

23 Stock options give recipients a right to buy company stock at a set price, called the exercise
 24 price or strike price. The right usually doesn’t vest for a year or more, but then it continues
 25 for several years. The exercise price is usually the stock’s 4 p.m. price the day before. . .

26 * * *

27 A key purpose of stock options is to give recipients an incentive to improve their employer’s
 28 performance, including its stock price. No stock gain, no profit on the options.

Charles Forelle and James Bandler, *The Perfect Payday – Some CEOs Reap Millions By Landing Stock Options When They Are Most Valuable; Luck – Or Something Else?* THE WALL STREET JOURNAL, MARCH 18, 2006, at A1.

1 41. Unfortunately, in practice, the granting of stock options to senior management
2 frequently did not have the desired effect. For example, options sometimes caused managers to
3 look for ways to drive up stock prices in the short term through acquisitions, assist sales, or even
4 fraud, rather than by effectively managing existing businesses for long terms success, as many
5 shareholders would prefer. Although compensation experts outline to debate whether or not these
6 risks outweigh the incentives stock options are intended to provide, a second, potentially larger,
7 problem is beginning to surface: stock option plans are becoming just another place to hide lavish
8 and unprecedented executive compensation.

9 42. More specifically, a series of recent reports in *The Wall Street Journal* (and in other
10 publications) concluded that among several firms, a pattern of sharp stock appreciation after grant
11 dates was indicative of backdating. In the past several months, dozens of companies have been
12 questioned by federal investigators (including the SEC and the U.S. Attorneys' Offices for the
13 Southern and Eastern Districts of New York) about whether backdated option awards have (i)
14 provided undisclosed benefits to senior executives and (ii) resulted in the filing of false financial
15 statements.

16 43. As noted above, backdating refers to the practice by which firms choose an option
17 grant date in the past with a lower stock price. The lower a stock option exercise price is, the more
18 money the recipient can potentially make in the future by exercising the options. Thus, which day's
19 price the options carry can make a big difference. By way of example, consider an executive who
20 received 100,000 options on a day when a company's stock is at \$30 per share. Exercising them
21 after the stock has reached \$50 per share would bring a profit of \$20 times 100,000, or \$2 million.
22 However, if the grant date was a month earlier and the stock then was at \$20 per share, the options
23 would bring in an extra \$1 million.

24 44. As set forth above, a key purpose of stock options is to give recipients an incentive to
25 improve their employer's performance, including its stock price. Backdating the option grants so
26 that they carry a lower price would run counter to this goal, by giving the recipient a paper gain
27 right from the start. Moreover, that instant paper gain is the equivalent of extra pay and, under
28 Generally Accepted Accounting Principles ("GAAP") in effect until December 31, 2005 (APB Np.

1 25), constitutes a cost to Juniper. As such, a firm that failed to include such a cost in its books will
2 have overstated its profits, and might need to restate past financial results.

3 45. The SEC requires that publicly traded companies present their financial statements in
4 accordance with GAAP. *See* 17 C.F.R. §210.4-01(a)(1). GAAP consists of those principles
5 recognized by the accounting profession as the conversations, rules, and procedures necessary to
6 define accepted accounting practices at the particular time. Regulations S-X, to which Juniper is
7 subject as a registrant under the Exchange Act, 17 C.F.R. §210.4-01(a)(1), provides that financial
8 statements filed with the SEC that are not prepared in compliance with GAAP are presumed to be
9 misleading and inaccurate.

10 46. The SEC has adopted the view that backdating violates securities law and constitutes
11 financial fraud when firms fail to record as compensation expense the amount by which the option
12 grants were actually “in the money” at the time that the grant decision was made. For instance, in a
13 complaint filed by the SEC against Peregrine Systems, Inc. in June of 2003, the SEC alleged that
14 Peregrine’s option plan administrator used a “look back” process between quarterly Board meetings
15 to identify the day with the lowest stock price over the interval and then declared this date to be the
16 grant date. The SEC views this as a form of financial fraud because it resulted in the
17 understatement of compensation expenses. Specifically, quoting from the SEC complaint. “[u]nder
18 the applicable accounting rules, any positive difference in the stock price between the exercise price
19 and that on the measurement date. . . had to be accounted for as compensation expense. By failing
20 to record the compensation expense, Peregrine understated its expenses by approximately \$90
21 million”.

22 47. In addition, backdating stock option grant dates also has significant federal income
23 tax implications. By way of background, favorable tax treatment was one reason that options
24 gained popularity in the 1990s as a way to compensate employees, particularly executives. 28
25 U.S.C. §162(m), Section 162(m) of the Internal Revenue Code (“Section 162(m”), provides that
26 compensation in excess of \$1 million per year (including gains on stock options) paid to a
27 corporation’s five most highly-compensated officers is tax deductible only if certain conditions are
28 met. One of those conditions is that the compensation must be payable solely on account of the

1 attainment of one or more performance goals. Tax experts have opined that options backdated to a
2 day with a lower market price do not qualify for a Section 162(m) deduction (since such grants are
3 not deemed performance-based compensation). As such, companies with backdated options now
4 face the prospect of paying out significant sums to revise prior years' tax returns.

5 48. A May 2006 study of 100 companies by the Rockville, Maryland-based Center for
6 Financial Research and Analysis ("CFRA") said that Juniper was among 17 companies in that
7 group which showed a "high-risk profile" for possible back-dating of options. Marc Siegel, director
8 of research at CFRA, said the firm's clients, which include investment managers, have been seeking
9 to identify companies with risky options patterns. CFRA looked at 100 companies that issued a
10 high proportion of options relative to their total executive compensation. It then identified those
11 that, on three or more occasions, granted options at exercise prices that matched, or were close to,
12 lows of Juniper stock price between 1997 and 2002, followed by a bounce of at least 10% in share
13 price.

14 49. At or about that same time, J.P. Morgan analyst, Ehud Gelblum, issued a report
15 reviewing option grants to executives at seventeen companies (including Juniper) dating back to
16 1998. With respect to Juniper, Mr. Gelblum concluded that there existed a suspicious pattern of
17 grants at the stock's low price for a given month.

18 50. On the heels of the CFRA report and the J.P. Morgan analysis, Juniper announced on
19 May 22, 2006 it had received a request for information from the U.S. Attorney for the Eastern
20 District of New York relating to its granting of stock options. At that same time, Juniper also
21 indicated that its Audit Committee was reviewing practices in the area. Federal investigators likely
22 are focusing on the stock option grants identified below which, when considered as a whole, reveal
23 a pattern consistent with backdating.

24 51. Juniper's definitive proxy statement dated April 13, 2000 indicated that the
25 following stock options had been made to named executives during Juniper's fiscal year ended
26 December 31, 1999;

27 a. Defendant Kriens received 900,000 options at an exercise price of \$60.71 on
28 October 4, 1999;

1 b. Defendant Sindhu received 540,000 options at an exercise price of \$60.71 on
2 October 4, 1999;
3 c. Defendant Gani received 240,000 options at an exercise price of \$60.71 on
4 October 4, 1999;
5 d. Steven Haley received 315,000 options at an exercise price of \$60.71 on
6 October 4, 1999; and
7 e. Peter Wexler received 240,000 options at an exercise price of \$60.71 on
8 October 4, 1999;

9 52. Remarkably, the lowest closing price of Juniper's stock during the calendar month of
10 October 1999 occurred on October 4, 1999 (the day of the grant in question). Even more
11 remarkably, the value of Juniper's stock jumped considerably during the days following the stock
12 option grant of October 4, 1999. By the close of trading on October 25, 1999 (three weeks after the
13 option grant in question), Juniper's stock stood at \$81.33 (adjusted for a subsequent split), a 33.96%
14 jump in one week. By the close of trading on October 25, 1999, Juniper's stock stood at \$85.75
15 (adjusted for a subsequent split), a 41.24% increase over its October 4, 1999 close. Juniper's stock
16 ended trading in October 1999 at \$91.88 (again adjusted for a subsequent split).

17 53. A similar pattern is seen with respect to options granted to senior management
18 personnel in late 2000, and again in early July 2002. According to Juniper's definitive proxy
19 statement dated March 28, 2001, Juniper granted stock options to named executives as follows:

20 a. Defendant Kriens received 400,000 options at an exercise price of \$93.9375
21 on December 21, 2000;
22 b. Defendant Sindhu received 540,000 options at an exercise price of \$93.9375
23 on December 21, 2000;
24 c. Defendant Gani received 100,000 options at an exercise price of \$93.9375 on
25 December 21, 2000;
26 d. Steven Haley received 100,000 options at an exercise price of \$93.9375 on
27 October 4, 1999; and
28

1 e. Peter Wexler received 100,000 options at an exercise price of \$93.9375 on
2 October 4, 1999;

3 54. The lowest closing price of Juniper's stock during the calendar month of December
4 2000 occurred on December 21, 2000 (the day of the grant in question). Indeed, on December 1,
5 2000, Juniper's shares stood at \$131.88. By the close of trading on December 28, 2000 (one week
6 after the option grant in question), Juniper stock stood at \$138.63, an increase of 40.39%.

7 55. According to Juniper's definitive proxy statement dated March 28, 2003:

8 a. Defendant Kriens received 550,000 options at an exercise price of \$5.69 on
9 July 1, 2002;

10 b. Defendant Sindhu received 300,000 options at an exercise price of \$5.69 on
11 July 1, 2002;

12 c. Defendant Gani received 500,000 options at an exercise price of \$5.69 on
13 July 1, 2002;

14 d. Lloyd Carney received 500,000 options at an exercise price of \$5.69 on July
15 1, 2002;

16 56. The lowest closing price of Juniper's stock during the calendar month of July 2002
17 occurred on July 1, 2002 (the day of the grant in question). By the close of trading on July 8m 2002
18 (one week after the option grant in question), Juniper stock stood at \$7.25, an increase of 27.4%.
19 Within two weeks of the date of the grant, Juniper's shares stood at \$8.05 per share. Indeed, by the
20 close of trading on July 31, 2002, Juniper's shares were trading at \$8.00 per share, an increase of
21 40.59% over where they stood at the beginning of that calendar month.

22 57. The reason for the foregoing pattern is clear – the Defendants engaged in the practice
23 of backdating options (they chose an option grant date in the past with a lower stock price in order
24 to inflate substantially the value of those options in the hands of the recipients). The Defendants'
25 fraudulent conduct in this regard already has subjected Juniper to significant expense; and
26 potentially will subject Juniper to substantial regulatory fines, penalties and other damages and
27 costs, in that, among other things:

28

1 a. Options priced at below a stock's fair market value when they are awarded
 2 resulted in Juniper's executives receiving an instant paper gain. Under then applicable accounting
 3 rules, that "paper gain" was the equivalent of additional compensation to the executive that had to
 4 be treated as a cost to Juniper. Since it appears that Juniper did not treat as an expense the amount
 5 by which the market price of Juniper's stock on the actual date the options were issued exceeded the
 6 exercise price of the options, Juniper overstated its reported profits, and, as such, ***might need to***
 7 ***restate past financial results.*** Indeed, the U.S. Attorney's Office for the Eastern District of New
 8 York already is investigating Juniper's stock option grant practices and no fewer than three (3)
 9 derivative complaints are pending against Juniper's senior management team pertaining to this
 10 issue. Moreover, at present, Juniper's Audit Committee also is investigating Juniper's historical
 11 stock option grants;

12 b. Section 162(m) provides that compensation in excess of \$1 million per year
 13 (including gains on stock options) paid to a corporation's five most highly-compensated officers is
 14 tax deductible ***only*** if certain conditions are met. One of those conditions is that the compensation
 15 must be payable solely on account of the attainment of one or more performance goals. Options
 16 backdated to a day with a lower market price do not qualify for a Section 162(m) deduction (since
 17 such grants are not deemed performance-base compensation). As such, companies like Juniper with
 18 backdated options now face the prospect of paying out significant sums to revise prior years' tax
 19 returns; and

20 c. The backdating of stock options may negatively affect Juniper's credit rating on a
 21 going-forward basis. A recent report issued by Moody's Investor Services ("Moody's") sets forth
 22 several credit risks associated with backdating, including financial and reputation risk. According
 23 to Jeffrey Benner, a Moody's analyst and one of the report's authors, backdating inquires could
 24 raise ratings questions about a company's leadership, reputation, governance practices, and
 25 financial performance. For instance, the report points out those investigations into backdating
 26 already have led to leadership shakeups, as senior managers at several companies under
 27 investigation departed abruptly. In addition, the report explains that any wrongdoing the
 28 investigations uncover could soil a company's reputation enough to affect a company's standing

1 with customers, employees, and investors. Indeed, on May 22, 2006, Standard & Poor's Rating
 2 Services placed its ratings on Juniper on CreditWatch with negative implications, citing the probe
 3 related to Juniper's stock option grants.

4 **VII. FALSE AND MISLEADING STATEMENTS DURING THE CLASS PERIOD**

5 58. As detailed herein, during the Class Period, Defendants issued or caused to be issued
 6 materially false and misleading statements that deceived the investing public as to Juniper's
 7 financial performance and condition.

8 59. Many of Juniper's false and misleading statements during the Class Period below
 9 were made in Form 10-K's and Form 10-Q's that were certified by Defendant Kriens and Defendant
 10 Gani in accordance with the Sarbanes-Oxley Act of 2002. By certifying those public filings,
 11 Defendants Kriens and Gani represented, *inter alia*, that the quality and accuracy of the information
 12 contained therein concerning Juniper's financial performance and condition was safeguarded by
 13 internal financial controls in place at Juniper, which were designed to foster the development of
 14 reliable financial statements.

15 **A. Form 10-Q for the Quarterly Period Ending September 30, 2003**

16 60. On or about November 14, 2003, Juniper filed with the SEC a Form 10-Q for the
 17 quarterly period ending September 30, 2003. Defendant Gani signed this Form 10-Q. Pursuant to
 18 the Sarbanes-Oxley Act of 2002, this Form 10-Q also included certifications signed by Defendants
 19 Kriens and Gani. In that public filing, Juniper reported net income of \$7.205 million for the three
 20 month period ending September 20, 2003 (as compared to a net loss of \$88.33 million for the three
 21 months ending September 30, 2002). Juniper further reported net income of \$24.466 million for the
 22 nine month period ending September 30, 2003 (as compared to a net loss of \$128.102 million for
 23 the nine month period ending September 30, 2002). Juniper further stated it had recorded tax
 24 provisions of \$7.7 million and \$14.3 million for the three and nine months ended September 30,
 25 2003, or effective tax rates of 52% and 37%, respectively.

26 61. In addition, Juniper noted that its stock option plans were accounted for under the
 27 intrinsic value recognition and measurement principles of APB No. 25 (and related interpretations).
 28 Juniper indicated that since the exercise price of all options granted under these plans was equal to

1 the market price of the underlying common stock on the grant date, no stock-based employee
 2 compensation cost, other than acquisition-related compensation, was recognized in net income.

3 62. With respect to the issue of internal controls, Juniper indicated it had “carried out an
 4 evaluation, under the supervision and with the participation of our management, including the Chief
 5 Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of
 6 our disclosure controls and procedures as of the end of the period covered by this report.” Juniper
 7 added that “[b]ased upon that evaluation, the Chief Executive Officer and Chief Financial officer
 8 concluded that our disclosure controls and procedures are effective in timely alerting them to
 9 material information relating to Juniper (including its consolidated subsidiaries) required to be
 10 included in our Exchange Act filings.”

11 **B. Form 10-K for Fiscal Year 2003**

12 63. On or about February 20, 2004, Juniper filed with the SEC a Form 10-K for Fiscal
 13 Year 2003 (ending December 31, 2003). Defendants Kriens, Gani, Sindhu, Hearst, Sclavos, and
 14 Stensrud signed Juniper’s Form 10-K for Fiscal Year 2003. Pursuant to the Sarbanes-Oxley Act of
 15 2002, this Form 10-K also included certifications signed by Defendants Kriens and Gani. In that
 16 public filing, Juniper stated that its net income for 2003 was \$39.199 million, compared to a net loss
 17 in 2002 of \$119.56 million (Juniper added it had a net loss of \$13.41 million in 2001; net income of
 18 \$147.91 million in 2000; and a net loss of \$9.034 million in 1999). Juniper further indicated that
 19 provision for income taxes increased to \$19.8 million in 2003 from \$4.5 million in 2002.
 20 According to Juniper, the 2003 effective rate was 33.6%. Juniper added that provision for income
 21 taxes had decreased to \$4.5 million in 2002 from \$30.0 million in 2001, and that effective tax rates
 22 for 2002 and 2001 were – 3.9% and 181%, respectively.

23 64. Juniper again noted that its stock option plans were accounted for under the intrinsic
 24 value recognition and measurement principles of APB No. 25 and related interpretations.
 25 According to Juniper, since the exercise price of all options granted under these plans was equal to
 26 the market price of the underlying common stock on the grant date, no stock-based employee
 27 compensation cost, other than acquisition-related compensation cost, was recognized in net income.

1 65. Juniper also added that under Juniper's Amended and Restated 1996 Stock Option
 2 Plan (the "1996 Plan"), incentive stock options were granted at an exercise price of not less than the
 3 fair value per share of the common stock on the date of grant; and that while nonstatutory stock
 4 options may be granted at an exercise price of not less than 85% of the fair value per share on the
 5 date of grant; no nonstatutory stock options had been granted for less than fair market value on the
 6 date of grant.

7 66. Juniper further noted that in July 2000, its Board of Directors had adopted the
 8 Juniper Networks 2000 Nonstatutory Stock Option Plan (the "2000 Plan"). Juniper indicated that
 9 the 2000 Plan provided for the granting of nonstatutory stock options to employees, directors and
 10 consultants; and that while nonstatutory stock options could be granted at an exercise price of not
 11 less than 85% of the fair value per share on the date of grant, no nonstatutory stock options had
 12 been granted for less than fair market value on the date of grant.

13 67. With respect to the issue of internal controls, Juniper stated that: "[w]e carried out an
 14 evaluation, under the supervision and with the participation of our management, including the Chief
 15 Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of
 16 our disclosure controls and procedures as of the end of the period covered this report. Based upon
 17 that evaluation, the Chief Executive Officer and Chief Financial Officer concluded that our
 18 disclosure controls and procedures are effective in timely alerting them to material information
 19 relating to Juniper (including its consolidated subsidiaries) required to be included in our Exchange
 20 Act filings."

21 C. **Form 10-K for Fiscal Year 2004**

22 68. On or about March 4, 2005, Juniper filed with the SEC a Form 10-K for Fiscal Year
 23 2003 (ending December 31, 2003). Defendants Kriens, Sindhu, Sclavos, and Stensrud signed
 24 Juniper's Form 10-K for Fiscal Year 2004. Pursuant to the Sarbanes-Oxley Act of 2002, this Form
 25 10-K also included certifications signed by Defendant Kriens. In that public filing, Juniper reported
 26 2004 net income of \$135.746 million; compared to \$39,199 million in 2003 (Juniper further
 27 indicated it had a net loss in 2002 of \$119.65 million; a net loss in 2001 of \$13.41 million; and net

28

1 income of \$147.91 million in 2000). Juniper added that provision for income taxes increased to
2 \$83.3 million in 2004 from \$19.8 million in 2003.

3 69. Juniper again reported that its stock option plans were accounted for under the
4 intrinsic value recognition and measurement principles of APB No. 25 and related interpretations.
5 In this regard, Juniper indicated that since the exercise price of all options granted under these plans
6 was equal to the market price of the underlying common stock on the grant date, no stock-based
7 employee compensation cost, other than acquisition-related compensation cost, was recognized in
8 net income. With regard to its stock option plans, Juniper again noted that under the 1996 Plan,
9 incentive stock options were granted at an exercise price of not less than fair value per share of the
10 common stock on the date of grant; and that while nonstatutory stock options could be granted an
11 exercise price of not less than 85% of the fair value on the date of grant. With respect to the 1996
12 Plan, Juniper again stated that while nonstatutory stock options may be granted at an exercise price
13 of not less than 85% of the fair value per share on the date of the grant, no nonstatutory stock
14 options had been granted for less than fair market value on the date of grant.

15 70. With respect to the issue of internal controls, Juniper stated it had assessed the
16 effectiveness of Juniper's internal control over financial reporting as of December 31, 2004 and it
17 had concluded that "as of December 31, 2004, Juniper Networks Inc.'s internal control over
18 financial reporting is effective."

19 **D. Form 10-K for Fiscal Year 2005**

20 71. On or about March 7, 2006, Juniper filed with the SEC a Form 10-K for Fiscal Year
21 2003 (ending December 31, 2003). Defendants Kriens, Sindhu, Hearst, Sclavos, and Stensrud
22 signed Juniper's Form 10-K for Fiscal Year 2004. Pursuant to the Sarbanes-Oxley Act of 2002, this
23 Form 10-K also included certifications signed by Defendant Kriens. In that public filing, Juniper
24 stated, among other matters, that its 2005 net income was \$354 million; compared to 2004 net
25 income of \$135.7 million; and 2003 net income of \$3.92 (Juniper further indicated it had a net loss
26 in 2002 of \$119.7 million; and a net loss in 2001 of \$13.4 million). Juniper added that provision for
27 income taxes increased to \$83.3 million in 2004 from \$19.8 million in 2003. Juniper further noted
28

1 that provision for income taxes increased to \$148.2 million in 2005 from \$83.3 million in 2004 (and
 2 that provision for income taxes increased to \$83.3 million in 2004 from \$19.8 million in 2003).

3 72. Juniper added that Juniper's stock option plans were accounted for under the
 4 intrinsic value recognition and measurement principles of APB No. 25 and related interpretations.
 5 Juniper added that since the exercise price of all options granted under these plans was equal to the
 6 market price of the underlying common stock on the grant date, no stock-based employee
 7 compensation cost, other than acquisition-related compensation cost, was recognized in net income.
 8 In addition, Juniper again noted that under the 1996 Plan, incentive stock options were granted at an
 9 exercise price of not less than the fair value per share of the common stock options were granted at
 10 an exercise price of not less than the fair value per share of the common stock on the date of grant;
 11 and that while nonstatutory stock options may be granted at an exercise price of not less than 85%
 12 of the fair value market value on the date of grant. Finally, Juniper stated that under the 2000 Plan,
 13 non-statutory stock options may be granted at an exercise price of not less than 85% of the fair
 14 value per share on the date of grant; but that no non-statutory stock options had been granted for
 15 less than fair market value on the date of grant.

16 73. With respect to the issue of internal controls, Juniper stated it had assessed the
 17 effectiveness of Juniper's internal control over financial reporting as of December 31, 2005 and it
 18 had concluded that "as of December 31, 2005, Juniper Network's Inc.'s internal control over
 19 financial reporting is effective."

20 74. Defendants' statements concerning Juniper's financial performance and condition as
 21 set forth above were each false and misleading when made because they misrepresented or omitted
 22 the following material adverse facts that the Defendants knew at the time the statements were made:

23 a. That stock options to Juniper employees were not always issued at the fair
 24 market value of Juniper's stock on the date of the grant since the Defendants repeatedly
 25 manipulated option grant dates to coincide with particularly low share prices (so as to benefit option
 26 recipients);

27 b. That Juniper had not consistently followed the dictates in APB No. 25 in that
 28 (i) options priced at below a stock's fair market value when they are awarded results in an executive

1 receiving an instant paper gain; and (ii) Juniper did not treat that “paper gain” as a cost to the
 2 corporation in its financial statements (thus inflating Juniper’s net earnings);

3 c. That Juniper understated its income tax liability since options backdated to a
 4 day with a lower market price do not qualify for a Section 162(m) deduction (since such grants are
 5 not deemed performance-based compensation);

6 d. That Company insiders (including defendants Kriens, Sindhu and Gani)
 7 received backdated options and thus took excess and unjustified compensation at the expense of the
 8 investing public;

9 e. That significant accounting errors existed in Juniper’s historic financial
 10 statements;

11 f. That Juniper had failing and deficient internal controls and procedures and
 12 lacked any meaningful ability to accurately report its financial results; and

13 g. That Juniper’s illicit scheme vis-à-vis backdating stock option grant dates
 14 potentially subjected Juniper to substantial regulatory fines, penalties and other legal action, thereby
 15 compromising Juniper’s overall financial condition and prospects.

VIII. THE TRUTH IS FINALLY REVEALED

17 75. As noted above, a May 2006 study of 100 companies by the CFRA said that Juniper
 18 was among 17 companies in that group which showed a “high-risk profile” for possible back-dating
 19 of options. In addition, at or about that same time, a J.P. Morgan analyst who had reviewed option
 20 grants to executives at seventeen companies dating back to 1998 concluded, with respect to Juniper,
 21 that there existed a suspicious pattern of grants at the stock’s low price for a given month. The
 22 announcement of these findings had an immediate impact on Juniper’s stock price. Juniper’s stock,
 23 which had closed the month of April 2006 at \$18.48 per share stood at only \$16.10 per share by the
 24 close of trading on May 18, 2006.

25 76. Prior to the opening of trading on May 22, 2006, Juniper issued a press release in
 26 which it announced that Juniper had received a request for information from the office of the United
 27 States Attorney for the Eastern District of New York relating to Juniper’s granting of stock options.
 28 Juniper indicated that (i) it was actively engaged in responding to this request for information; and

1 (ii) its Audit Committee was reviewing Juniper's historical stock option granting practices. On the
2 release of this news, Juniper shares dropped to a 52-week low of \$14.62 during morning trading on
3 May 22, 2006.

4 **IX. IMAPPLICABILITY OF SAFE HARBOR**

5 77. As alleged herein, the Defendants acted with scienter in that they knew, at the time
6 that they issued them, that the public documents and statements issued or disseminated in the name
7 of Juniper were materially false and misleading or omitted material facts; knew that such statements
8 or documents would be issued or disseminated to the investing public; knew that persons were
9 likely to reasonably rely on those misrepresentations and omissions; and knowingly and
10 substantially participated or were involved in the issuance or dissemination of such statements or
11 documents as primary violations of the federal securities law. As set forth elsewhere herein, the
12 Defendants, by virtue of their (i) receipt of information reflecting the true facts regarding Juniper,
13 (ii) control over, and/or receipt of Juniper's allegedly materially misleading misstatements, and (iii)
14 access to confidential proprietary information concerning Juniper were informed of, participated in
15 and knew of the fraudulent scheme alleged herein. With respect to non-forward looking statements
16 and/or omissions, Defendants knew and/or recklessly disregarded the falsity and misleading nature
17 of the information which they caused to be disseminated to the investing public.

18 79. Alternatively, to the extent that any statutory safe harbor is intended to apply to any
19 forward-looking statement pled herein, the Defendants are liable for the false forward-looking
20 statement pled because, at the time each forward-looking statement was made, the speaker knew or
21 had actual knowledge that the forward-looking statement was materially false or misleading, and
22 the forward-looking statement was authorized and/or approved by a director and/or executive
23 officer of Juniper who knew that the forward-looking statement was false or misleading. None of
24 the historic or present tense statements made by the Defendants was an assumption underlying or
25 relating to any plan, projection or statement of future economic performance, as they were not
26 stated to be such an assumption underlying or relating to any projection or statement of future
27 economic performance when made nor were any of the projections or forecasts made by the
28

1 Defendants expressly related to or stated to be dependent on those historic or present tense
 2 statements when made.

3 **X. ADDITIONAL SCIENTER ALLEGATIONS**

4 80. As alleged herein, the Defendants acted with scienter in that, *inter alia*, the
 5 Defendants knew or acted with recklessness with respect to the fact that the public documents and
 6 statements issued or disseminated in the name of Juniper were materially false and misleading;
 7 knew that such statements or documents would be issued or disseminated to the investing public;
 8 and knowingly and substantially participated or acquiesced in the issuance or dissemination of such
 9 statements or documents as primary violations of the federal securities law. As set forth elsewhere
 10 herein, the Individual Defendants, by virtue of their receipt of information reflecting the true facts
 11 regarding Juniper, their control over and/or receipt of modification of the allegedly materially
 12 misleading misstatements and omission described herein, which made them privy to confidential
 13 proprietary information concerning Juniper, directly and substantially participated in the fraudulent
 14 scheme alleged herein.

15 81. Moreover, the ongoing fraudulent scheme described in this Complaint could not
 16 have been perpetrated over a substantial period of time, as has occurred, without the knowledge of
 17 individuals at the highest levels of Juniper, including the Individual Defendants.

18 **XI. APPLICABILITY OF PRESUMPTION OF RELIANCE: THE FRAUD-ON-THE-**
MARKET DOCTRINE

19 82. The Market for Juniper's securities was open, well-developed and efficient at all
 20 relevant times for the following reasons (among others):

- 21 a. Juniper's shares met the requirements for listing, and were listed and actively
 traded on NASDAQ;
- 22 b. As a regulated issuer, Juniper filed periodic public reports with the SEC;
- 23 c. Juniper regularly communicated with public investors via established market
 communication mechanisms, including through regular disseminations of press releases on the
 national circuits of major newswire services and through other wide-ranging public disclosures,
 such as communications with the financial press and other similar reporting services;
- 24 d. The market reacted to public information disseminated by Juniper;

[CORRECTED] CLASS ACTION COMPLAINT

1 e. Juniper was followed by numerous material securities analysts employed by
 2 major brokerage firms who wrote reports which were distributed to the sales force and certain
 3 customers of their respective brokerage firms. Each of these reports was publicly available and
 4 entered the public marketplace;

5 f. The material misrepresentations and omissions alleged herein would tend to
 6 induce a reasonable investor to misjudge the value of Juniper securities; and

7 g. Without knowledge of the misrepresented or omitted material facts, Plaintiff
 8 and the other members of the Class purchased or otherwise acquired Juniper securities between the
 9 time Defendants made the material misrepresentations and omissions and the time the fraudulent
 10 backdating was being disclosed, during which time the price of Juniper securities was inflated by
 11 Defendants' misrepresentations and omissions.

12 83. Because of the foregoing, the market for Juniper's securities promptly digested
 13 current information regarding Juniper from all publicly available sources and reflected such
 14 information in Juniper's securities prices. Under these circumstances, all purchased and acquires of
 15 Juniper's securities prices. Under these circumstances, all purchasers and acquires of Juniper's
 16 securities during the Class Period suffered similar injury through their purchase or acquisition of
 17 Juniper's securities at artificially inflated prices and a presumption of reliance apply.

18 **XII. LOSS CAUSATION**

19 84. Throughout the Class Period, the prices of Juniper's securities were artificially
 20 inflated as a direct result of Defendants' fraudulent misrepresentations regarding Juniper's financial
 21 condition and results.

22 85. Juniper's financial condition and results, including Juniper's fraudulent practices vis-
 23 à-vis backdated stock option grants, were material information to Plaintiff and the other members of
 24 the Class. Had the truth been disclosed to the market at or before the end of the Class Period,
 25 Plaintiff and the other Class members would not have purchased Juniper stock at all, or would have
 26 done so only at substantially lower prices than the artificially inflated prices which they actually
 27 paid.

1 86. When the truth about Juniper was revealed, the inflation that had been caused by
2 Defendants' misrepresentations and omissions was swiftly eliminated from the price of Juniper's
3 securities, causing significant losses to Plaintiff and the other Class members. The disclosures of
4 third-party reports into the suspicious stock option grant practices of Juniper, as well as the May 22,
5 2006 disclosure of the U.S. Attorneys' investigation of Juniper's stock option grant process, led to a
6 flurry of trading in which Juniper's stock price plunged from its \$18.48 close on April 28, 2006, to
7 an opening price of \$14.62 on May 22, 2006 (this represented a loss of market capitalization of over
8 \$1.34 billion).

9 87. The decline in Juniper's securities price following the revelations of Juniper's
10 fraudulent practices, and the resulting losses suffered by Plaintiff and the other members of Class,
11 are directly attributable to the market's reaction to the disclosure of information that had previously
12 been misrepresented or concealed by Defendants, and to the market's adjustment of Juniper's
13 securities price to reflect the newly emerging truth about Juniper's financial condition.

16 | XIII CAUSES OF ACTION

COUNT I

**Violation of Section 10(b) of The Exchange Act
And Rule 10b-5 Promulgated Thereunder**

(Against all Defendants)

20 89. Plaintiff repeats and realleges each and every allegation contained above as if fully
21 set forth herein.

22 set forth herein.
23 90. This court is asserted by Plaintiff on behalf of itself and the Class against all the
24 Defendants and is based upon Section 10(b) of the Exchange Act, 15, U.S.C. §78j(b), and Rule 10b-
25 5, 17 C.F.R. §240.10b-5, promulgated thereunder.

25 3, 17 C.F.R. §210.103-1, ¶
26 91. During the Class Period, the Defendants carried out a plan, scheme and course of
27 conduct which was intended to and, throughout the Class Period, did: (i) deceive the investing
28 public, including Plaintiff and other Class members, as alleged herein; (ii) artificially inflate and
maintain the market price of Juniper's securities; and (iii) cause Plaintiff and other members of the

1 86. When the truth about Juniper was revealed, the inflation that had been caused by
2 Defendants' misrepresentations and omissions was swiftly eliminated from the price of Juniper's
3 securities, causing significant losses to Plaintiff and the other Class members. The disclosures of
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5 2006 disclosure of the U.S. Attorneys' investigation of Juniper's stock option grant process, led to a
6 flurry of trading in which Juniper's stock price plunged from its \$18.48 close on April 28, 2006, to
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8 \$1.34 billion).

9 87. The decline in Juniper's securities price following the revelations of Juniper's
10 fraudulent practices, and the resulting losses suffered by Plaintiff and the other members of Class,
11 are directly attributable to the market's reaction to the disclosure of information that had previously
12 been misrepresented or concealed by Defendants, and to the market's adjustment of Juniper's
13 securities price to reflect the newly emerging truth about Juniper's financial condition.

14 88. Defendants' fraudulent conduct, as alleged herein, proximately caused foreseeable
15 losses to Plaintiff and the other members of the Class.

16 | XIII. CAUSES OF ACTION

COUNT I

**Violation of Section 10(b) of The Exchange Act
And Rule 10b-5 Promulgated Thereunder**

(Against all Defendants)

21 89. Plaintiff repeats and realleges each and every allegation contained above as if fully
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22 90. This court is asserted by Plaintiff on behalf of itself and the Class against all the
23 Defendants and is based upon Section 10(b) of the Exchange Act, 15, U.S.C. §78j(b), and Rule 10b-
24 5. 17 C.F.R. §240.10b-5, promulgated thereunder.
25

26 91. During the Class Period, the Defendants carried out a plan, scheme and course of
27 conduct which was intended to and, throughout the Class Period, did: (i) deceive the investing
28 public, including Plaintiff and other Class members, as alleged herein; (ii) artificially inflate and
maintain the market price of Juniper's securities; and (iii) cause Plaintiff and other members of the

1 Class to purchase or otherwise acquire Juniper's securities at artificially inflated prices. In
2 furtherance of this unlawful scheme, plan and course of conduct, the Defendants, and each of them,
3 took the actions set forth herein.

4 92. The Defendants: (i) employed devices, schemes, and artifices to defraud; (ii) made
5 untrue statements or material fact and/or omitted to state material facts necessary to make the
6 statements not misleading by use of means or instrumentalities of interstate commerce; and (iii)
7 engaged in acts, practices, and a course of business which operated as a fraud and deceit upon the
8 purchasers and acquires of Juniper's securities in an effort to maintain artificially high market prices
9 for Juniper's securities in violation of Section 10(b) of the Exchange Act and Rule 10b-5.

10 93. Because of their making and/or their substantial participation in the creation of
11 affirmative statements and reports to the investing public, the Defendants had a duty to promptly
12 disseminate truthful information that would be material to investors in compliance with the
13 integrated disclosure provisions of the SEC as embodied in SEC Regulation S-K (17 C.F.R.
14 §229.10, *et seq.*) and other SEC regulations, including accurate and truthful information with
15 respect to Juniper's operations and performances so that the market prices of Juniper's publicly
16 traded securities would be based in truthful, complete and accurate information. The Defendants'
17 material misrepresentations and omissions as set forth herein violated that duty.

18 94. The Defendants engaged in the fraudulent activity described above knowingly and
19 intentionally or in such a reckless manner as to constitute willful deceit and fraud upon Plaintiff and
20 the Class. The Defendants knowingly caused their reports and statements to contain misstatements
21 and omissions of material fact as alleged herein.

22 95. Because of the Defendants' fraudulent activity, the market price of Juniper was
23 artificially inflated during the Class Period.

24 96. In ignorance of the true financial condition of Juniper, Plaintiff and other members
25 of the Class, relying on the integrity of the market and/or on the statements and reports of Juniper
26 containing the misleading information, purchased or otherwise acquired Juniper securities at
27 artificially inflated prices during the Class Period.

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1 Class to purchase or otherwise acquire Juniper's securities at artificially inflated prices. In
 2 furtherance of this unlawful scheme, plan and course of conduct, the Defendants, and each of them,
 3 took the actions set forth herein.

4 92. The Defendants: (i) employed devices, schemes, and artifices to defraud; (ii) made
 5 untrue statements or material fact and/or omitted to state material facts necessary to make the
 6 statements not misleading by use of means or instrumentalities of interstate commerce; and (iii)
 7 engaged in acts, practices, and a course of business which operated as a fraud and deceit upon the
 8 purchasers and acquires of Juniper's securities in an effort to maintain artificially high market prices
 9 for Juniper's securities in violation of Section 10(b) of the Exchange Act and Rule 10b-5.

10 93. Because of their making and/or their substantial participation in the creation of
 11 affirmative statements and reports to the investing public, the Defendants had a duty to promptly
 12 disseminate truthful information that would be material to investors in compliance with the
 13 integrated disclosure provisions of the SEC as embodied in SEC Regulation S-K (17 C.F.R.
 14 §229.10, *et seq.*) and other SEC regulations, including accurate and truthful information with
 15 respect to Juniper's operations and performances so that the market prices of Juniper's publicly
 16 traded securities would be based in truthful, complete and accurate information. The Defendants'
 17 material misrepresentations and omissions as set forth herein violated that duty.

18 94. The Defendants engaged in the fraudulent activity described above knowingly and
 19 intentionally or in such a reckless manner as to constitute willful deceit and fraud upon Plaintiff and
 20 the Class. The Defendants knowingly caused their reports and statements to contain misstatements
 21 and omissions of material fact as alleged herein.

22 95. Because of the Defendants' fraudulent activity, the market price of Juniper was
 23 artificially inflated during the Class Period.

24 96. In ignorance of the true financial condition of Juniper, Plaintiff and other members
 25 of the Class, relying on the integrity of the market and/or on the statements and reports of Juniper
 26 containing the misleading information, purchased or otherwise acquired Juniper securities at
 27 artificially inflated prices during the Class Period.

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97. The market price of Juniper's securities decline materially upon the public disclosure of the true facts which had been misrepresented or concealed as alleged herein.

98. Plaintiff's (and the Class') losses were proximately caused by Defendants' active and primary participation in Juniper's scheme to defraud the investing public by, among other things, falsifying Juniper's financial results through the knowing or reckless failure to properly apply GAAP. Plaintiff (and the members of the Class) purchased Juniper securities in reliance on the integrity of the market price of those securities, and Defendants manipulated the price of Juniper securities through their misconduct as described herein. Furthermore, Defendants' misconduct proximately caused Plaintiff's (and the Class') losses were a direct and foreseeable consequence of Defendants' failure to disclose and their concealment of, *inter alia*, the true state of the business operations and financial condition of Juniper.

99. Throughout the Class Period, Defendants were aware of material non-public information concerning Juniper's fraudulent conduct (including the false and misleading accounting statements). Throughout the Class Period, Defendants willfully and knowingly concealed this adverse information regarding Juniper's falsified revenue figures, and Plaintiff's (and the Class') losses were the foreseeable consequence of Defendants' concealment of this information.

100. As a direct and proximate cause of the Defendants' wrongful conduct, Plaintiff and
other members of the Class suffered damages in connection with their respective purchases and
sales of Juniper securities during the Class Period.

COUNT II

Violation of Section 20(a) of The Exchange Act

(Against all Defendants)

101. Plaintiff repeats and realleges each and every allegation contained above as if fully set forth herein.

set forth herein.

25 102. As alleged herein, the Individual Defendants acted as controlling persons of Juniper
26 within the meaning of Section 20(a) of the Exchange Act, 15 U.S.C. §78t(a). By virtue of their
27 executive positions, and/or Board membership, as alleged above, these individuals had the power to
28 influence and control and did influence and control, directly or indirectly, the decision-making of

1 Juniper, including the content and dissemination of the various statements which Plaintiff contends
2 are false and misleading. The Individual Defendants were provided with or had unlimited access to
3 copies of Juniper's internal reports, press releases, public filings and other statements alleged by
4 Plaintiff to be misleading prior to and/or shortly after these statements were issued and had the
5 ability to prevent the issuance of the statements or cause the statements to be corrected.

6 103. In particular, the Individual Defendants had direct involvement in the day-to-day
7 operations of Juniper and therefore, are presumed to have had the power to control or influence the
8 particular transactions giving rise to the securities violations as alleged herein, and exercised the
9 same.

10 104. As set forth above, the Individual Defendants and Juniper committed a primary
11 violation of Section 10(b) and Rule 10b-5 of the Exchange Act by the acts and omissions alleged in
12 this Complaint. By virtue of their positions as controlling persons of Juniper, the Individual
13 Defendants are liable pursuant to Section 20(a) of the Exchange Act. As a direct and proximate
14 result of the Individual Defendants' wrongful conduct, Plaintiff and the other members of the Class
15 suffered damages in connection with their purchase or acquisition of Juniper securities during the
16 Class Period.

17 **XIV. PRAAYER FOR RELIEF**

18 WHEREFORE, Plaintiff prays for relief and judgment, as follows:

- 19 A. Determining that this action is a proper class action;
- 20 B. Awarding compensatory damages in favor of Plaintiff and the other class members
against all Defendants, jointly and severally, for all damages sustained because of the Defendants'
21 wrongdoing , in an amount to be proven at trial, including interest thereon;
- 22 C. Awarding Plaintiff and the Class their reasonable costs and expenses incurred in this
action, including counsel fees and expert fees; and
- 23 D. Awarding such other and further relief as the court may deem just and proper.

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2 **XV. JURY TRIAL DEMANDED**

3 Plaintiff hereby demands a trial by jury on all claims set forth herein.

4
5 Dated: June 7/23, 2007

6 By: Reginald T

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